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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,452	02/12/2004	Gregory G. Griese	117P45USD2	4772

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EXAMINER	
DOERRLER, WILLIAM CHARLES	
ART UNIT	**PAPER NUMBER**
3744	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,452	GRIESE ET AL.	
	Examiner	Art Unit	
	William C Doerrler	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-21 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 12 February 2004 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2-12-2004.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Haertle '387. Haertle shows a strip 7 (a mounting plate) which is adhesively mounted to the interior of a dryer and removably attached to a product plate 6 which holds a fabric softener.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mizuno '813. Figure 2 of Mizuno '813 shows an adhesive strip 12 which mounts to the side of a dryer and removably holds product plate 9 which supports a fabric softener.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-6,8,11,13,14,16-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Haertle '387 or Mizuno '813 in view of Scepanski. Haertle and Mizuno each disclose applicants' basic inventive concept, a fabric softener holder which removable mounts to the inside of a dryer, substantially as claimed with the exception of casting the fabric softener directly to the mounting plate. Scepanski shows cast fabric softener to be old in the fabric softener art (see title, amongst other references). It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Scepanski to modify the fabric softener device of either Haertle or Mizuno by casting the fabric softener in place to provide a secure hold on a product which will be evenly distributed over its time of use. In regard to claims 11 and 21, Official Notice is taken that dove-tail shaped grooves are well known in the solids fastening art and as such would have been an obvious modification for an ordinary practitioner in the art to provide a firm connection between solids.

Claims 3-6,9,11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Haertle '387 or Mizuno '813 in view of Hewitt et al. Haertle and Mizuno each disclose applicants' basic inventive concept, a fabric softener holder which removable mounts to the inside of a dryer, substantially as claimed with the exception of solidifying the fabric softener directly to the mounting plate. Hewitt et al shows solidifying fabric softener to a support to be old in the fabric softener art (see

column 7 line 66- column 8 line 54). It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Hewitt et al to modify the fabric softener device of either Haertle or Mizuno by solidifying the fabric softener in place to provide a secure hold on a product which will be evenly distributed over its time of use. In regard to claim 11, Official Notice is taken that dove-tail shaped grooves are well known in the solids fastening art and as such would have been an obvious modification for an ordinary practitioner in the art to provide a firm connection between solids.

Claims 7,12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Haertle or Mizuno in view of Scepanski as applied to claims 2-6,8,11,13,14,16-19 and 21 above, and further in view of Rutherford.
Haertle and Mizuno, each as modified, disclose applicants' basic inventive concept, a fabric softener dispenser with solid fabric softener attached to a mounting plate, substantially as claimed with the exception of extruding the fabric softener in place. Rutherford shows this feature to be old in the solid fabric softener art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Rutherford to modify the fabric softener dispenser of either Mizuno or Haertle by extruding the fabric softener to the plate to prove a secure connection which can be quickly manufactured.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6,8-11,13,14 and 16-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 10-12 of U.S. Patent No. 6,779,740. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a solid product on a product carrier which is removably mounted to a mounting plate. The use of the device in a dryer is seen as an obvious matter of intended use, particularly since the older patent claims magnetic attachment and dryers are well known to be made of metal. In regard to claims 11 and 21, Official Notice is taken that dove-tail shaped grooves are well known in the solids fastening art and as such would have been an obvious modification for an ordinary practitioner in the art to provide a firm connection between solids.

Claims 7,12 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 10-12 of U.S. Patent No. 6,779,740 in view of Rutherford. Applicants' earlier patent claims applicants' currently claimed invention, a product dispenser and carrier with a mounting plate which is removably attached to a product carrier with solid product mounted

thereon, substantially as currently claimed with the exception of extruding the solid in place. Rutherford shows this feature to be old in the solid forming art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to modify the earlier claims by forming the solid by extrusion which provides uniform distribution which can be quickly manufactured.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hendrickson et al show a fabric softener dispenser which is magnetically fastened to the inside of a dryer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William C Doerrler
Primary Examiner
Art Unit 3744

WCD